

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15793 of The George Washington University, pursuant to 11 DCMR 3108.1, for a special exception under Section 210 for further processing of an approved campus plan to establish a recreation court on a portion of an existing parking lot within the campus plan in an R-5-D District at premises 2024 G Street, N.W. (Square 103, Lot 813).

HEARING DATE: April 21, 1993
DECISION DATE: May 5, 1993

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject site is located at 2024 G Street, N.W. between 20th and 21st Streets. The site is located within the George Washington University Campus boundaries, on Lot 813 in Square 103. The site is zoned R-5-D.

2. The site consists of 6,625 square feet of land area and is improved with a surface parking lot accommodating 29 vehicles. The parking lot was approved by BZA Order No. 14725 issued May 5, 1988.

3. The applicant proposes to construct a 900 square foot (30 feet by 30 feet) recreation court in the southwest corner of the University. The applicant testified that the playing surface of the proposed court would consist of a grid of interlocking plastic tiles that would be installed on the west side of the court and a 200 square foot (10 feet by 20 feet) tennis practice rebounder that would be installed on the south side of the court.

4. The applicant further testified that the proposed facility would be screened by a 10-foot high black chainlink fence on all four sides. A three-foot wide security gate would also be installed on the northeastern corner of the court.

5. The R-5-D District in which the site is located permits matter of right general residential uses of high density development, including single-family dwellings, flats and apartments to a maximum height of 90 feet, a maximum floor area ratio (FAR) of 3.5 and a maximum lot occupancy of 75 percent. A college or university that is an academic institution of higher learning is permitted in an R-5-D District if approved by the Board of Zoning Adjustment. The applicant shall submit to the Board a plan for developing the campus as a whole, showing the location

height, and bulk, where appropriate, of all present and proposed improvements. The Zoning Regulations prescribe a maximum FAR of 1.8 for the total bulk of all buildings and structures on the campus of a university or college.

6. The applicant testified that the proposed project would result in a reduction in the number of parking spaces on the subject parking lot from 29 to 20. Similarly, the University's overall parking inventory would be reduced from the current 2,840 spaces to 2,831 spaces. The applicant stated that the remaining within the range of 2,700 to 3,000 spaces that are required in the approved campus plan for the University. The applicant further stated that the proposed facility would provide an opportunity for more students to enjoy the benefits of exercise and fresh air.

7. By report dated April 13, 1993 and through testimony at the public hearing, the Office of Planning (OP) recommended approval of the application. In the opinion of the Office of Planning, the applicant has met the burden of proof under Section 310. The proposed recreation court is not likely to become objectionable to neighboring property owners because of noise, traffic, number of students or other objectionable conditions since it would be located in the center of the campus, substantially removed from any nearby residential areas. The proposed court would be consistent with the approved campus plan for the University. The use and operation of the proposed facility would not impair the intent, purpose, and integrity of the Zoning Regulations and Map.

8. The D.C. Fire Department in a memorandum dated March 17, 1993, stated that it has no objection to the application.

9. The D.C. Metropolitan Police Department (DCMPD) in a letter dated February 18, 1993, states that it does not appear that the application will affect public safety in the immediate area, or generate an increase granting level of police services now being provided. The Department does not oppose the application.

10. The D.C. Department of Housing and Community Development (DHCD) in a memorandum dated March 11, 1993, states that it has no objection to granting the special exception to allow for a recreational court in a portion of the existing parking lot.

11. The D.C. Department of Public Works (DPW) in a memorandum dated April 20, 1993, states that the sport court project will temporary reduce the University's parking inventory from 2840 spaces to 2831 spaces. This figure is with the approved University Campus Plan (1985-2000) which established a required provision of parking ranging between 2,700 and 3,000 spaces. The Department has no objection to the proposal.

12. The Delta Phi House Corporation of Sigma Nu Fraternity in a letter dated April 20, 1993, expressed their objection to the granting of the special exception.

13. Advisory Neighborhood Commission (ANC) 2A by letter dated April 14, 1993, submitted a resolution and report to the Board on Application Nos. 15793 and 15808. By testimony at the public hearing, the Advisory Neighborhood Commission raised three issues of concern. The testimony presented in the hearing on BZA Application No. 15793 was incorporated by reference and with agreement of the parties in the hearing on Application No. 15808. The ANC presented three reasons that the applications should be denied:

- A. GWU does not have an approved campus plan;
- B. GWU's 1985 Campus Plan is not consistent with the District of Columbia Comprehensive Plan, including amendments enacted after the Board's original decision on the 1985 Campus Plan; and
- C. Further campus development should not continue until GWU alleviates adverse conditions created by off-campus student housing.

The ANC maintained that GWU's failure to construct dormitories on campus during the period of the 1985 Campus Plan violates the Comprehensive Plan and the Board's original order on the 1985 Campus Plan. The ANC further maintained that based on GWU's past policies and practices regarding student housing, it is clear that the University will not voluntarily submit an application for Board approval of new dormitory construction on campus. Therefore, the Board must require GWU to do so in order to alleviate the objectionable conditions created by the number of students living off-campus in Foggy Bottom and to comply with the Comprehensive Plan.

14. Several persons testified on what they perceived as being problems in the surrounding neighborhood from student residents, but did not offer specific objections to the subject special exception application.

15. The University through counsel objected to the statement of the ANC on the grounds of relevancy and further identified through representation the conditions referenced by the BZA, namely conditions 6 and 7 of the Campus Plan approved on June 29, 1988 (Condition 6 identifies properties which would be used only as university dormitories if acquired by the University during the life of the 1985 Campus Plan. Condition 7 requires the University to designate, within the campus boundary, at least one preferred

development site and one alternative development site for residential use). Counsel indicated that while the University has complied with both conditions, these concerns and issues could be addressed outside the instant application.

FINDINGS OF FACT:

1. Subsequent to the resolution of the ANC 2A, the Board issued its Campus Plan Order on Remand on April 13, 1993 and no further issue at the public hearing was raised relating to the lack of approval of the Campus Plan.

2. Regarding the issue of compliance with the Comprehensive Plan, this Board has no power or authority to implement the Comprehensive Plan.

3. Regarding the ANC's position that the Board should not approve further processing of any application for approval of any use under the Campus Plan until certain conditions are met or remedied, the Board finds that the ANC comments on this application are restricted by the Regulations and the Board may only consider legally relevant issues and concerns.

4. If there is an alleged failure to comply with a condition of the Board's order, this matter can be brought to the attention of the Zoning Administrator who is in charge of enforcement of the Zoning Regulations and orders of this Board.

5. The ANC's written report and the testimony of other parties did not address the substance of the proposed use of 2024 G Street, N.W. or its relationship to the provisions of Section 210 of the Zoning Regulations.

6. The University's overall parking inventory would be reduced from the current 2,840 spaces to 2,831 spaces as a result of the proposed basketball court. However, the figure would be within the approved Campus Plan (1985-2000) which established a required provision of parking ranging between 2,700 and 3,000 spaces.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking special exception relief, the granting of which requires compliance with the requirements of Sections 210 and 3108.1 of the Zoning Regulations, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and that it will not tend to affect adversely the use of neighboring property. The Board concludes that as to the special exception relief, the University has met its burden of

proof and that the use is located so as to not likely become objectionable. The Board's approved Campus Plan for GWU designates the site in the "Education mixed-use" category. The Board further concludes, that the proposed recreational basketball court is not likely to adversely impact adjacent or nearby properties.

The Board concludes that the Zoning Commission is the appropriate zoning body to address issues of consistency with the Comprehensive Plan. The Board implements and applies the special exception provisions of the Zoning Regulations and has no power to implement the Comprehensive Plan. The Board concludes that the ANC's and other opponents' contention that the Board should not approve any application for further processing under the Campus Plan until certain conditions are met is without basis and is irrelevant to the subject application.

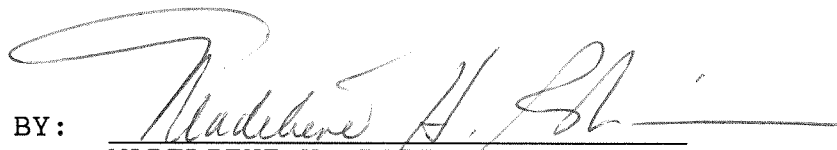
The Board concludes that ANC-2A's assertion that the Board can not process this application until the University begins construction of on-campus dormitories, has no basis in law and no support in either the approved Campus Plan or previous orders of this Board. If there is an alleged violation of the Campus Plan, such a violation allegation should be referred to the Zoning Administrator who is responsible for enforcing the Zoning Regulations and orders of this Board.

The Board further concludes that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board has accorded the ANC the "great weight" to which it is entitled. Accordingly, it is hereby ORDERED that this application is GRANTED.

VOTE: 4-0 (Sheri M. Pruitt, Paula L. Jewell, Teresh Boasberg and Angel F. Clarens to grant; Carrie L. Thornhill not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER:

AUG 8 1995

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PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15793

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 8 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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A handwritten signature in dark ink, reading "Madeline H. Robinson", is written over a horizontal line.

MADELIENE H. ROBINSON
Director

DATE: AUG 8 1995.